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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,003	07/29/2003	Ke-Yi Li	USP1997C/SH11-KYL	8543

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RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK, CA 91754

EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,003

Applicant(s)

LI, KE-YI

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's election without traverse of Group I claims 1-6 in the reply filed on 5/25/06 is acknowledged.

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in China on 8/5/02. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

It is not clear what is meant by serial of flour product. What does the term "serial" indicate? The use of the refecation is confusing because what kind of food is a "refecation". Refecation means "refreshment with food and drink; a light meal or repast". It does not indicate a flour product. It is not clear what "fermented flour" encompassed. Applicant's repeated use of the term "able" is unclear; for example, what do the phrases "able to be a composite material or "able to be composite nutrition" or "able to be single-flavor" mean? The repeated use of "or not" is confusing; for example, the phrase "adding a certain amount of water or not" is unclear. Is water added? The reference to "bean products" is unclear because it is not known what bean products refer to. Are the bean products contained bean or what?

Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant claims a flour product in which flavorings such as vegetable, fruits, sea foods, domestic birds, wild birds, plants, fungus or condiments are added into the flour. A filling is added to the flour. However, applicant does not teach one skilled in the art how to form this product. The specification sets the steps on page 3-4. However, the specification does not disclose any amounts to use. For example, how much flavoring is added to the flour? How the juice, granules and powder are prepared from the flavor materials such as domestic birds, fungus et... There is no disclosure of much water is added and what steps to take in producing a series of semi-finished product. The specification does not specify the type vegetables, fruits, plants, fungus, bird, sea foods and condiments that can be used. There are many different types of plants, vegetables, fruits, sea foods, condiment, bird and fungus. There is no indication the method disclosed is applicable to all plants, vegetables, fruits and fungus. Since the specification does not have sufficient teaching of how to make the product, the product is not enabling. Reading the specification, one skilled in the art would not know how to make the claimed product.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite because it is not clear what applicant is trying to claimed. What does applicant mean by " serial flour product". The phrase "such as"

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renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). The term “condiment” is unclear because it is not known what flavoring the term encompasses. The scope of such language cannot be determined. What does applicant mean by “fermented flour”? The term “plants” is unclear because it is not known what kind of plant is included or excluded from the claim. There are many type of plants. The term “bean product” is unclear because the claim does not recite adding any kind of bean; thus, how is the bean product formed. What does applicant by bean product? The claim is indefinite because it is not known if the features recited on lines 8-20 are part of the claim or not. For example, applicant recites “the tastes and nutrition of the novel products are much improved and increased keeping the original natural, salty or sweet taste” If the taste is much improved, then how is the original taste kept. What natural, salty or sweet taste the claim is referring to? Applicant’s repeated use of the term “able to” is confusing; does the product have the characteristics recited or not? It is not known what “able to” indicates. What does applicant mean by composite nutrition. Lines 18-20 are indefinite because it is not known if the filling is a feature of the claim or not.

Claim 2 has the same problem as claim 1.

In claim 3, “said a raw material of bean product” lack antecedent basis; what raw material of bean product is the claim referring to. It is not clear what the claim is claiming with respect to the single new product, single flavor. What does applicant by “serial bean products”.

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Claims 4-6 have the same problems as claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the book "The Good Cook Breads".

The cookbook discloses flour products containing flavoring materials such as egg and sugar. The book also discloses flour products containing vegetables in the form of granules that are added to the flour. The book also teaches to combine dough with filling material to make filled dough product.

The claims are confusing with respect to their scope. According to the examiner's interpretation, the claims are directed to a flour product containing flavoring materials and this product is combined with a filling.

The book does not teach combining the dough containing the flavoring material with a filling. However, it teaches to combine filling with dough material. It would have

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been obvious to combine filling with the flavored dough to obtain product with multiple flavors and texture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 9, 2006


LIEN TRAN
PRIMARY EXAMINER
Group 1700